

U.S. Patent Application 10/039,195
Response of 06/28/2005

REMARKS

Applicants appreciatively acknowledge the Examiner's finding that claims 2-8 and 18-23 recite patentable subject matter, though being objected to on formal grounds as being dependent on rejected claims. Applicants having amended the claims from which they depend to be clearly patentable, it is submitted that these claims are allowable in the present form.

Applicants also acknowledge the Examiner's courtesy in conducting a phone interview for this case the morning of May 31, 2005. At the interview, Applicants' attorney pointed out that the Pinheiro reference (US 6,641,471) relates to the texture of polishing pads rather than the subject matter of the present invention, namely treads and their design. A polishing pad is of its use and nature designed to dig into and cut the substrate being polished, not to develop motive force against the surface. Pinheiro discloses polishing pads with surface microtextures having various specific surface roughness characteristics. This reference mentions "fractal" in connection with a groove superimposed on the microtexture that may have a fractal pattern of unspecified characteristics. These grooves are intended to improve the rate of flow of the polishing slurry between the pad and the surface being polished and thus to reduce the time required to achieve a steady-state operational condition. Applicants respectfully traverse the Examiner's characterization of the following excerpts of Pinheiro: col. 3, lines 56-58; col. 8, lines 63-67; col. 9, lines 1-5, as being pertinent to the present invention.

During the interview, Applicant's attorney suggested that the Pinheiro reference could be expressly distinguished from the present invention by the fact that the tread of the present invention is intended for "rolling" contact with the traction surface, and the Examiner agreed. On further consideration, Applicants choose to amend claims 1 and 2 to characterize the intended contact as "frictional" to avoid a tortured construction of "rolling" to include a shoe tread, as recited in claim 17. It is clear that a shoe with a tread intentionally has **frictional** contact with the substrate surface, regardless of whether its contact with the surface would be characterized as "rolling" along the substrate surface. Other types of treads which clearly roll along a surface (e.g. tire treads) also intentionally have **frictional** contact with the surface. Support for the recitation that the substrate be "intended for **frictional** contact with the traction surface" is found throughout the specification, e.g. at p. 2, line 25; p. 13, line 19; p. 22, line 26-p. 23, line 19.

Regarding the Sentmanat reference (US 6,467,149) which was applied in the Office Action along with Pinheiro as making obvious claims 1, 9-13 and 17, Applicants point out that it describes a device for injecting lengths of fibers into a substrate material. Applicants assert that if Sentmanat were to be read along with Pinheiro, the combination would fail to teach the present invention.

Claims 14 and 16 were rejected as being obvious from a combination of the aforesaid Pinheiro and Sentmanat references taken with DeLongcamp (US 4,917,162). DeLongcamp,

U.S. Patent Application 10/039,195
Response of 06/28/2005

however, has nothing to do with tread or traction surface design and fails entirely to remedy the aforementioned deficiencies of the Pinheiro and Sentmanat references, which together do not make obvious the subject matter of the recited claims.

Claim 15 was rejected as being obvious from a combination of the aforesaid Pinheiro and Sentmanat references taken with Boscaino (US 3,794,093). Boscaino teaches a tire tread with a "double-H shape in plan" but fails to teach anything that, taken with Pinheiro and Sentmanat, would make obvious the overall subject matter recited in claim 15.

As a formal matter, Applicant's have complied with the Examiner's request to insert the punctuation of a colon (namely a :) following the recitation of "step of". This formal change is not made for a reason of patentability and is not intended to affect the enforceable scope of the claims so amended.

Similarly, Applicants amend claim 3 to change "claimed in" to "of" for formal consistency with the rest of the dependent claims. This formal change is not made for a reason of patentability and is not intended to affect the enforceable scope of the claims so amended.

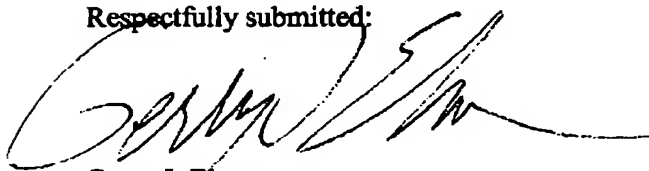
At the phone interview Applicants' attorney pointed out that the IDS "Information Disclosure Citation" form page 1, dated MAR 22 2002 by the Patent & Trademark Office OIPE, shows the Examiner's initials adjacent the two US patent references cited in the upper portion of the page, but that the citations on the lower portion to two technical articles from the Journal of Tribology had not been correspondingly initialed. The Examiner checked the file and confirmed that the references were present and that he had reviewed them, commenting that his failure to initial the two journal references was an oversight and that they would be initialed when next he examines the file.

CONCLUSION

It is submitted that all of the rejections have been addressed and that the claims as amended are patentable over the prior art. Accordingly a prompt Notice of Allowance is respectfully requested. If the Examiner has any questions at this point, he is invited to call the undersigned attorney to resolve them quickly.

Respectfully submitted:

June 28, 2005



Gerry J. Elman
Reg. 24,404

Customer no. 003775

Phone: 610-892-9942
efax: 925-226-4995
email: gerry@elman.com